

While the sale of tangible personal property at retail by exclusively religious, educational or charitable organizations is generally subject to Retailer's Occupation Tax, there are three limited exceptions. See 86 Ill. Adm. Code 130.2005(a)(2-4). (This is a GIL).

July 17, 2000

Dear Xxxxx

This letter is in response to your letters dated May 9, 2000 and June 19, 2000. The nature of your letters and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department, 2 Ill. Adm. Code 1200.120(b) and (c) (see <http://www.revenue.state.il.us/legalinformation/regs/part1200>).

In your letter of May 9, 2000, you have stated and made inquiry as follows:

...I would like a letter stating that we are exempt from paying taxes. Due to the fact that effective January 1, 2000 our bookstore which is located in our church and we only sell to our church members.

In your letter of June 19, 2000, you have stated and made inquiry as follows:

Per our phone conversation attached is a list of items sold in NAME Bookstore

- Bibles (adult, teens, and children)
- Books (religious)
- CD (music)
- Tapes (music)
- Magazines
- Tracts
- Greeting cards
- Tee Shirts
- Gift Baskets
- Picture Frames
- Videos

The Department has determined that the NAME is organized and operated exclusively for religious purposes and issued it tax exemption identification number E####. Exclusively religious organizations are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These types of sales are classified as Sales to Members, Noncompetitive Sales, and Occasional Dinners and Similar Activities. See, 86 Ill. Adm. Code 130.2005(a) (2-4), enclosed. Please note that the latter two categories only apply to sales of limited duration. Because your bookstore operates on a continuous basis, the question about whether you must pay sales tax

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on your bookstore sales boils down to whether such sales qualify as sales to members.

After reviewing the regulation and relevant case law and applying the rules to the items you sell, we conclude you should continue filing and remitting sales tax on all your book store sales. The Sales to Members exemption found at 86 Ill. Adm. Code 130.2005(a)(2) is limited to sales by an exclusively religious, educational or charitable organization that are made *primarily for the purposes of the selling organization* to its members, or students in the case of a school. Examples of such exempt sales include sales of bibles by a church to its members or sales of choir robes by a church to the members of the church's choirs, 86 Ill. Adm. Code 130.2005(a)(2)(B).

While you state that the NAME Bookstore sells bibles and religious books, these are not the only items you sell. Most of the remaining items on your list do not constitute items that are being sold "primarily for the purposes of the selling organization" as required by Section 130.2005(a)(2)(A). If you only sold bibles to church members, you might be entitled to the sales to members exemption. Because the products you sell contain many items not eligible for this exemption, you must collect and remit sales tax on all your sales of tangible personal property.

The Illinois Supreme Court provided guidance in this area in the case of Follett's Book & Supply Store v. Isaacs, 27 Ill.2d 600, 1963. In Follett's the court analyzed a situation where schools were selling books only to their students. The schools were not charging sales tax pursuant to a Department of Revenue regulation that exempted sales of schoolbooks by schools to its students. Retail bookstores that competed with the school bookstores brought the lawsuit and claimed that the schools were operated for educational purposes and that their book sales were not essential to such purposes or operated in furtherance of such purposes. The Illinois Supreme Court concluded that the sales were subject to sales tax and the court voided the particular Department regulation that had exempted such sales from sales tax liability.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:msk  
Enc.